In *People* v. *Coleman*, supra, the decision was that the association then under examination was not included within a statute imposing a tax on corporations. In the principal case there would seem to be a fair doubt as to the intent of the legislature to subject such organizations as the Shaker Society to the requirement imposed by the statute upon "religious corporations," and on this ground the decision might be supported.

CUMULATIVE PENALTIES AND STARE DECISIS.—The Court of Appeals of New York has decided that a statute requiring street railway companies to issue transfers in certain instances and allowing a recovery of fifty dollars to the aggrieved party "for every refusal" to issue them as required should be interpreted to mean that in an action by the aggrieved party only one penalty might be recovered, and that the institution of an action for such penalty was a waiver of the plaintiff's right to recover all penalties previously incurred. *Griffin* v. *Interurban St. Ry. Co.* (1904) 72 N. E. 513.

The decision is in harmony with a general policy on the part of the courts, and particularly those of New York, to construe statutes imposing penalties and forfeitures strictly, and to allow a recovery of only such penalties and forfeitures as the legislature clearly intended to impose. *Sturgis* v. *Spofford* (1871) 45 N. Y. 446. Cumulative penalties are not favored. *Morgan* v. *Hedstrom* (1900) 164 N. Y. 224, 232. Where the acts complained of are single in their nature and each a violation of the statute, cumulative penalties are allowed although not expressly provided for by the statute; *Milnes* v. *Bale* (1875) L. R. 10 C. P. 591; but where the acts can possibly be construed to constitute one continuous violation only one penalty can be recovered. See *Apothecaries Co.* v. *Jones* (1893) L. R. 1 Q. B. 89. Some States, and among them New York, have held that only where the statute was punitive would cumulative recoveries be allowed without some express declaration of the legislative intent; *People* v. *N. Y. C. Ry.* (1855) 13 N. Y. 78; and where the statute was remedial a clear declaration of the legislative purpose was required. *Parks* v. *Railroad Co.* (Tenn. 1884) 13 Lea 1; *Fisher* v. *N. Y. C. Ry.* (1871) 46 N. Y. 644. In each of these cases, however, there was a fair doubt as to the intent of the legislature; in the principal case there seems to be no such possibility. "For each refusal" is a phrase which every court dealing with a close case has suggested would indicate a clear intent on the part of the legislature to impose cumulative penalties, and the New York court allowed such penalties in the case of *Suydam* v. *Smith* (1873) 52 N. Y. 383, under a statute in which this phrase was used. The court bases its present decision on grounds of public policy.

Stare decisis is a doctrine only of policy, and its application must vary with the nature of the question involved. Inherently the doctrine contains no sufficient reason for a refusal to depart from it, but the courts have usually required cogent reasons for ignoring it, *Hamilton* v. *Baker* (1889) L. R. 14 A. C. 209, and where rights of property or of contract would be affected by a change of decision they have most consistently refused to depart from a former holding. *Pugh* v. *Golden Valley R. Co.* (1880) L. R. 15 Ch. D. 330; *Grignon's Lessee*

v. *Astor* (1844) 2 How. 319, 343. In the principal case no right of property was involved, for while in England it is held that the right to a penalty or forfeiture created by statute is vested, 1 Chitty Crim. Law, 742, in this country such a right is considered only inchoate, to become vested by judgment. *Morris* v. *Crocker* (1851) 13 How. 429; *Bank of St. Mary's* v. *State* (1853) 12 Ga. 475, 494. But the maxim expresses a policy extending beyond the bounds of property and contract rights; it looks to stability in the law in general (see *Grubbs* v. *State* (1865) 24 Ind 295; *Fisher* v. *Horicon Iron Co.* (1860) 10 Wis. 351). and in cases beyond these bounds there should also be not only clear proof that the former decision was wrong, but in addition, strong reasons for a change. There seems to be little room for doubt that the phrase received a correct interpretation in *Suydam* v. *Smith*, supra. This interpretation having received the legislative sanction, it would seem that the court in the principal case has controverted the legislative intent. The reasons of policy which influenced the court in its later decision should have concerned only the legislature. See *Railroad* v. *County Court* (Tenn. 1854) 1 Sneed 637, 668.

ADMISSION OF SUICIDAL DECLARATIONS IN TRIALS FOR HOMICIDE.—Neither the text-writers nor the courts agree as to the admissibility of suicidal declarations in trials for homicide. 2 Bishop, Crim. Proc., § 623; McKelvey, Evidence, 140; *Siebert* v. *People* (1892) 143 Ill. 571; *Com.* v. *Trefethen* (1892) 157 Mass. 180. Some courts, influenced by Bishop, supra, have excluded the evidence as hearsay, not coming within any of the exceptions to the rule as to res gesta, dying declarations, or statements made in the presence of the defendant so as to influence his conduct, *Siebert* v. *People*, supra; *State* v. *Fitzgerald* (1895) 130 Mo. 407; nor as to exclamations of pain or statements concerning health. *State* v. *Punshon* (1894) 124 Mo. 448. It is clear that the excluded declarations do not come within any of these exceptions, or even within the expanded res gesta rule, 15 Am. L. R. 71; *State* v. *Hayward* (1895) 62 Minn. 474, though similar statements may constitute res gesta. 2 Bishop, Crim. Proc., § 626; So far the cases are sound. But the courts erred in assuming that to be admitted declarations of a deceased person must fall within one of the exceptions named. Declarations of a deceased testator may always be shown on questions as to his mental capacity or sanity; *Waterman* v. *Whitney* (1854) 11 N. Y. 157; or to show his intention as to the disposition of property, *Doe* d *Shallcross* v. *Palmer* (1851) 16 Q. B. 747. And, entirely aside from any proper application of the res gesta rule, 1 Greenleaf, 16th ed., § 162, threats either of the defendant or of the deceased, are admitted where they tend to establish a design or plan, *Stokes* v. *People* (1873) 53 N. Y. 164; *Rex* v. *Hagan* (1873) 12 Cox C. C. 357, and this principle is extended to include expressions of a mere hostile desire to see a person. *State* v. *Horne* (1872) 9 Kan. 123. The courts excluding the evidence often misconceive its purpose, treating it as if offered to prove the act of suicide, or the state of mind immediately accompanying the act, whereas its real object is to show, as an evidential fact, the existence of a design. Where this fact is to be proved the declarations of a person, living or dead, should always be evidence; *Insurance Co.* v.